

Message Text

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TAGS: EGEN, ETRD

SUBJECT: ATTACHED FUNDS: FIRST CHICAGO INTERNATIONAL
BANKING CORPORATION, NEW YORK

REF STATE 36006

1. FOLLOWING IS CHRONOLOGY OF EVENTS CONCERNING SUBJECT

ATTACHED FUNDS AND GRB REASON FOR IMPOUNDING THEM.

2. ON MARCH 11, 1975 FUNDS WERE DEPOSITED BY FCIBC TO
ACCOUNTS OF TWO LOCAL COMMERCIAL BANKS IN PAYMENT OF
"CONFIRMED IRREVOCABLE LETTER OF CREDIT" ISSUED BY GULF
BANK OF KUWAIT. AS SOON AS OCIBU LEARNED THAT COFFEE
PURCHASER HAD REJECTED SHIPMENT, OWING TO ALLEGED DOCUMENT
DISCREPANCIES, BURUNDI'S CENTRAL BANK (THE BANQUE DE
LA REPUBLIC DU BURUNDI-- ABBREVIATED BRB) ASKED BOTH
COMMERCIAL BANKS TO HOLD THESE FUNDS UNTIL COFFEE COULD
BE RESOLD.

3. SINCE COFFEE WAS RESOLD AT MUCH LOWER PRICE, OCIBU
DECIDED TO INITIATE LAWSUIT TO RECOUP LOSSES. (SUBJECT
FUNDS HAD BEEN PAID FOR FIRST 125 TONS OF CONTRACT
WHICH STIPULATED 1,025 TONS AT 53 CENTS/POUND. AFTER
CONTRACT WAS BROKEN, OWING TO ORIGINAL PURCHASER'S DESIRE
TO ESCAPE LOSSES WHICH WOULD HAVE RESULTED FROM SHARP
BREAK IN PRICES. COFFEE WAS RESOLD FOR 37 CENTS/POUND,
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RESULTING IN OCIBU LOSS OF ABOUT 53,000 DOLLARS--INCLUDING

TRANSPORTATION--ON FIRST 125 TONS ALONE). THUS ON JULY 21, BRB ASKED COMMERCIAL BANKS TO TRANSFER SUBJECT FUNDS TO BRB FOR SAFEKEEPING,PENDING OCIBU'S PREPARATION OF ITS CASE. ON DEC 16, GRB COURT OF FIRST INSTANCE AGREED TO ACCEPT OCIBU'S COMPLAINT, AND ORDERED BRB TO ATTACH SUBJECT FUNDS, WHICH THEN REMAINED IN "SUSPENDED ACCOUNT" UNTIL FEB 02, 1976.

4. ON FEB 02, COURT OF FIRST INSTANCE ACTED ON OCIBU MOTION TO DISMISS LITIGATION TO RECOVER ITS LOSSES, AND ORDERED BRB TO UNBLOCK SUBJECT FUNDS. BRB RECIEVED OFFICIAL NOTIFICATION OF COURT'S ACTION ON FEB 06, AND ON FEB 09 CABLED TRANSFER OF SUBJECT FUNDS IN DOLLARS, TO FCIBC.

5. INITIALLY, FOR PURPOSES OF RECOVERING LOSSES, BOTH OCIBU AND BRB HAD CONSIDERED THAT SUBJECT FUNDS BELONGED TO ORIGINAL COFFEE PURCHASER, FROM WHOM OCIBU HAD HOPED TO RECOVER LOSSES. IT BECAME CLEAR, HOWEVER, THAT FCIBC'S PAYMENT ON IRREVOCABLE LETTER OF CREDIT HAD NOT BEEN COVERED , AND SINCE BOTH OCIBU AND BRB WISHED TO AVOID BAD RELATIONS WITH U.S. BANK, IT WAS DECIDED NOT TO PURSUE LITIGATION. ACCORDINGLY OCIBU REQUESTED COURT OF FIRST INSTANCE TO ORDER SUBJECT FUNDS RELEASED.

6. THE COURT OF FIRST INSTANCE DID NOT RENDER A DECISION, BUT SIMPLY YIELDED TO OCIBU'S REQUEST THAT BRB UNBLOCK SUBJECT FUNDS AND REMIT THEM TO FCIBC.

7. UNDER CIRCUMSTANCES SET FORTH ABOVE, GRB BELIEVES IT HAS NEITHER OBLIGATION, NOR HAS IT THE INTENTION TO PAY INTEREST ON SUBJECT FUNDS COVERING TIME DURING WHICH THEY WERE "ATTACHED".
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